

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

JOSEPH STANLEY

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

)
)
)
)
)
)
)
)
)
)

CAUSE NO.: 1:02-CV-333

MEMORANDUM OF DECISION AND ORDER

I. INTRODUCTION

Plaintiff Joseph Stanley (“Stanley”) seeks judicial review¹ of a final decision of the Defendant Commissioner of Social Security, Jo Anne Barnhart (“Commissioner”), who found that he was not entitled to Social Security Insurance Disability Benefits (“DIB”) because his impairments did not prevent him from performing his past relevant work. *See* 42 U.S.C. §§ 416(i) and 423(d).

For the following reasons, the Commissioner’s final decision will be REVERSED and REMANDED for rehearing.

II. FACTUAL AND PROCEDURAL BACKGROUND

Alleging that he was disabled as of October 11, 1997, Stanley applied for DIB on April 14, 2000. (Tr. 75.) In his Application, he described his disabling condition as heart disease and recurring blocked arteries. (Tr. 78.) On June 8, 2000, the Social Security Administration (“SSA”) denied his claim for DIB. (Tr. 57.) By a letter dated July 5, 2000, Stanley asked the SSA to reconsider his claim. (Tr. 56.) The SSA denied Stanley’s original application for DIB as

¹All parties have consented to the Magistrate Judge. *See* 28 U.S.C. § 636(c).

well as his request for reconsideration on September 8, 2000. (Tr. 53.) Shortly thereafter, on October 24, 2000, Stanley requested a hearing before an Administrative Law Judge (“ALJ”). (Tr. 52.)

A. Administrative Hearing

The ALJ conducted a hearing on August 29, 2001. (Tr. 24.) At this hearing, Stanley testified that he was currently sixty-five years old,² and last worked as a school teacher at North Adams Community School in Decatur, Indiana, in October of 1997. (Tr. 24.) He testified that he could not return to his previous work because it was stressful, and he had problems standing, walking and sitting. (Tr. 25.) Stanley attributed his sitting problems to the back surgery he had in 1996. (Tr. 26.) He also stated that he occasionally experienced numbness in his hands and could only lift ten to twenty pounds once in a while and not for an extended time. (Tr. 26.) As a result, Stanley felt that were he to return to his former position, he would have to give up his job as department head at least in part because of the lifting requirement. (Tr. 27.)

Stanley also mentioned that he had arthritis in his elbow and shoulder and experienced chest pain. (Tr. 27.) Although this chest pain is apparently unrelated to Stanley’s heart condition, he cannot distinguish it from pain that may be related to his heart condition. (Tr. 27.) Even though he has been on medication in the past for his other ailments, as of the date of the hearing, he was taking only two medications for his heart: Toprol XL and Lipitor. (Tr. 28.) Furthermore, Stanley said that he is able to take care of himself, drive, and work around the house in short increments of time maintaining the yard and performing minor household chores.

²Because of Stanley’s age, his entitlement to disability benefits, if any, is limited to the period between filing the application for benefits and reaching age 65, the social security retirement age. 42 U.S.C. §§ 416(l) and 423 (a)(1)(B).

(Tr. 28-29.)

For his cardiac condition, Stanley sees Dr. Stanley Rich. (Tr. 28.) He also sees Dr. Donald Snyder for a yearly physical, an occasional EKG, and chelation therapy. (Tr. 30.) According to Stanley, chelation is a process whereby EDTA³ is injected into his veins in order to clean out the impurities in his blood stream. (Tr. 30.) Stanley testified that although some doctors felt this therapy was “quackery”, it does make him feel better. (Tr. 30.)

Stanley’s wife of twenty-nine years, Joanna, also testified. She corroborated much of Stanley’s testimony by emphasizing that he is easily fatigued and cannot perform as many activities as before. (Tr. 30-34.)

The Vocational Expert (VE) expressed the opinion that a sixty-five year old, with Stanley’s past work history and limited to a light exertional level would be capable of performing Stanley’s past employment. (Tr. 36.) The ALJ then asked the VE if there are any other jobs that an individual with Stanley’s limitations could perform. (Tr. 36.) Relying on Stanley’s testimony about his low tolerance for stress and his wife’s statement that he suffered from fatigue when he went back to his lighter duties, the VE stated there were probably no such jobs. (Tr. 37.) Thus, this testimony suggests that the VE either did not consider stress in connection with his opinion about Stanley’s past employment, or viewed teaching as relatively stress-free. Upon cross examination by Plaintiff’s counsel, the VE nevertheless acknowledged that there were certain mental components to teaching, which include directing, negotiating, influencing, and dealing with people. (Tr. 37-38.) At the end of the hearing, Plaintiff’s counsel asked the ALJ to keep the record open so he could submit a questionnaire from Dr. Rich, and

³Chelation Therapy is an IV treatment that contains EDTA, an agent that attacks plaque in the arteries. According to Dr. Snyder, a patient’s circulation improves due to the plaque removal. (Tr. 200.)

eventually that document was submitted effectively closing the record. (Tr. 38-39.)

B. Medical Evidence

1. Medical History

Stanley had coronary artery bypass surgery in 1983 and angioplasty of the right coronary artery in 1987. (Tr. 171.) Beginning in 1995, Stanley experienced further problems with his heart. On July 11, 1995, he presented to Adams County Memorial Hospital with prolonged anterior chest pain. (Tr. 310.) He was transferred to Lutheran Hospital in Fort Wayne, Indiana for a coronary arteriography, which Dr. Rich performed on July 12, 1995. (Tr. 309, 310.) Dr. Rich discovered a seventy percent obstruction of a coronary artery. (Tr. 309.) As a result, Dr. Rich recommended a repeat coronary artery bypass or angioplasty, and an angioplasty was eventually performed later that month. (Tr. 155, 309.)

On April 15, 1996, Stanley presented to Parkview Memorial Hospital in Fort Wayne, Indiana, where he was examined by Dr. Stephen Schroeder, a neurosurgeon. (Tr. 155.) Dr. Schroeder diagnosed Stanley with L4-L5 arthropathy on the right, with nerve root compression. (Tr. 156.) On the same date, Dr. Schroeder performed L4 right partial hemilaminotomy, partial facetectomy and nerve root compression surgery on Stanley, who tolerated the procedure well. (Tr. 153-54.) Two days later, Stanley experienced a generalized tonic-clonic seizure while taking a shower at the hospital. (Tr. 160.) Dr. Wissman, a neurologist, diagnosed him with epilepsy and prescribed Dilantin. (Tr. 161-62.) Since this episode, Stanley has experienced no further seizures. (Tr. 252-256, 292.)

He was next admitted to Lutheran Hospital on August 5, 1996, with prolonged chest pain. (Tr. 298.) On August 7, 1996, Dr. Rich performed a coronary atherectomy and angioplasty.

(Tr. 298.) Stanley remained asymptomatic throughout the remainder of his stay and was discharged on August 9, 1996. (Tr. 298.)

Almost a year later, Stanley again saw Dr. Rich on July 7, 1997. (Tr. 295.) Dr. Rich performed a cardiac catheterization and discovered that the dominant right coronary artery had a 70 percent stenosis in its mid segment. (Tr. 295.) On July 10, 1997, Stanley was again admitted to Lutheran Hospital, where Dr. Brian Lew performed a balloon angioplasty and a stent placement. (Tr. 294.) Several months later, Stanley was admitted to Lutheran Hospital on October 18, 1997, with unstable angina. (Tr. 460.) On October 21, Dr. Rich performed another cardiac catheterization, and due to the severe progression of Stanley's coronary artery disease, Dr. Rich recommended coronary artery bypass surgery. (Tr. 282.) The next day, Dr. William Deschner repeated the quadruple coronary bypass surgery Stanley originally underwent in 1983. (Tr. 280, 171.)

At a follow-up appointment in November, Stanley was progressing well and displayed no symptoms of chest pain or shortness of breath. (Tr. 170.) He was scheduled to return to work in January 1998 if he continued to progress well. (Tr. 176.) By the end of May 1998, he was walking two and a half miles a day. (Tr. 202.) It also appears that Stanley returned to some form of work for the rest of the school year in 1998, because on his application for DIB, Stanley lists May 30, 1998 as his last day of work. (Tr. 105-106.)

Early in 1998, Stanley began seeing Dr. Don Snyder, apparently to receive Chelation Therapy. (Tr. 200, 204.) The record does not reveal Dr. Snyder's specialty nor does it contain his curriculum vitae. Moreover, Dr. Snyder has provided no further medical records for Stanley after November 20, 1998, but he apparently did order a series of tests for Stanley as late as

February 4, 2000. (Tr. 201, 208.)

On September 8, 1998, Stanley reported to a consultative examiner, Dr. Srinivas Addala, a specialist in internal medicine, for a social security disability exam.⁴ (Tr. 214.) Dr. Addala noted a history of coronary artery disease, with two related surgical procedures. (Tr. 214.) A stress electrocardiogram showed no ischemic changes. (Tr. 218.) Dr. Addala concluded that Stanley could walk a couple of miles without discomfort and could lift up to forty pounds. (Tr. 216.)

At his May 11, 1999, follow-up visit with Dr. Rich, it was noted that Stanley had apparently experienced no angina since his last bypass surgery. (Tr. 362.) At this time, Stanley was exercising at a health club two to three times a week for two hours at a time, where he walked the treadmill, lifted weights, and performed different types of aerobic exercise. (Tr. 362.) In November of 1999, Stanley returned to Dr. Rich for another follow-up. (Tr. 454.) Although not exercising at the same level as before, Stanley reported that he planned to return to a fitness club three times a week. (Tr. 454.) He also reported that he had been feeling well with no symptoms of angina. (Tr. 454.)

On April 19, 2000, Stanley presented to Adams County Memorial Hospital in Decatur with complaints of dull pain in the left side of his chest. (Tr. 350.) He was treated with nitroglycerin and baby aspirin and admitted to the ICU. (Tr. 351.) He was discharged the next day and ordered to follow up with Dr. Rich. (Tr. 349.) On May 4, 2000, he told Dr. Rich that he had no chest discomfort but nevertheless was not feeling well. (Tr. 530.) Since that experience,

⁴Prior to his April 2000 application for DIB, Stanley had filed a previous application. This claim was denied at the initial level on September 28, 1998, and not appealed. (Tr. 12.) Presumably, Dr. Addala examined Stanley in connection with the initial application for DIB.

he has been asymptomatic. (Tr. 530.) In addition, Stanley reported to Dr. Rich that he exercised vigorously with weights and treadmill three times a week for two hours each time, and could work around the house and yard without any problems. (Tr. 530.) While Stanley's May 2000 exercise testing showed some abnormalities, his exercise tolerance was still about forty percent above average for his age. (Tr. 529.)

At his next yearly check-up in April 2001, Stanley told Dr. Rich that he worked out at a health club three days a week for two hours at a time on a treadmill, bicycle, and weight machines and stated that he felt as good as he had in the last five or six years. (Tr. 533.)

2. The Cardiac Residual Functional Capacity Questionnaire

At the request of Stanley's attorney, two of his treating physicians completed a Cardiac Residual Functional Capacity Questionnaire. (Tr. 539, 543.)

a. Dr. Donald Snyder

On July 19, 2001, Dr. Snyder indicated that he saw Stanley frequently enough to be able to evaluate his medical condition. (Tr. 539.) Dr. Snyder listed a diagnosis of hypertriglyceridemia and hypercholesterolemia, which were both controlled with diet and medication. (Tr. 539.) Dr. Snyder reported that Stanley had undergone surgical procedures and had discogenic disease for which he had undergone lumbar surgery. (Tr. 539.) He also listed osteoarthritic changes of the right shoulder. (Tr. 539.) Dr. Snyder stated that Stanley could walk and stand up to two hours and sit for four hours in an eight hour workday. (Tr. 542.)

When explaining the role of stress in bringing on his patient's symptoms, Dr. Snyder indicated that "nothing done medically or surgically has abated his continuing downward course. He is stressed as to his mortality and morbidity (ability to continue an active and productive and

full / sustaining life).” (Tr. 540.) Dr. Snyder further indicated that directing, influencing, and dealing with people, as well as making judgments and decisions, might exacerbate his heart condition. (Tr. 540.) Dr. Snyder explained that all of these mental demands affect Stanley’s “ability to produce satisfactorily and therefore maintain an income. The mental stress further depletes his energy and his physical ability to manage a class [while] physically impaired. He is in pain with his arthritis and arm and cannot physically keep up the pace necessary to be effectual in this profession.” (Tr. 540.)

b. Dr. Stanley Rich

On September 10, 2001, Dr. Rich filled out the same questionnaire, which also was the one for which the record remained open, and indicated that he saw Stanley frequently enough to be able to evaluate his medical condition. (Tr. 549.) Dr. Rich stated that Stanley’s physical symptoms and limitations did not cause emotional difficulties such as depression or chronic anxiety. (Tr. 550.) Dr. Rich indicated that Stanley would not be able to sit, stand, or walk for as much as two hours during an eight hour work day, and that he could not bend at the waist more than three percent of the time out of an eight hour work day. (Tr. 551-53.) On the question about the role of stress in bringing on his patient’s symptoms, Dr. Rich indicated that Stanley’s house had been robbed the year before, and a motor vehicle accident caused injuries to his wife. (Tr. 550.) Further, Dr. Rich indicated that directing, influencing, and dealing with people, as well as making judgments and decisions, would not exacerbate Stanley’s heart condition and symptoms. (Tr. 550.)

Noting that Dr. Rich’s description of Stanley’s sitting and standing limitations were at odds with his examination of Stanley in 2000, the ALJ wrote Dr. Rich for an explanation. (Tr.

555.) Dr. Rich responded that he could not find a copy of the questionnaire and suspected he had filled it out for the wrong patient. (Tr. 556.) Nevertheless, the patient's history on page one of Dr. Rich's questionnaire does appear to accurately describe Stanley's medical history and symptoms. (Tr. 549.)

C. Decision of the Administrative Law Judge (ALJ)

The ALJ concluded that Stanley was not under a disability as defined in the Social Security Act ("Act"), and as a result, was not entitled to a period of disability or DIB under §§ 216(i) and 223 of the Act. (Tr. 19.) Specifically, under the five-step analysis mandated by 20 CFR § 404.1520, the ALJ first decided that Stanley was not performing substantial gainful work. (Tr. 13.) After the date of his alleged disability, Stanley returned to his job as a schoolteacher; however, he worked only a portion of the day and completed paperwork rather than his usual duties. (Tr. 13.) Because representatives of the SSA considered this an unsuccessful work attempt, the ALJ found that Stanley had not performed substantial gainful activity since his alleged onset date of October 11, 1997. (Tr. 13.)

Relying on Stanley's medical evidence, the ALJ then concluded that his impairments (cardiovascular disease and musculoskeletal limitations), although severe within the meaning of the Regulations, were not severe enough to meet or medically equal one of the impairments listed in Appendix 1, Subpart P, Regulation No. 4. (Tr. 14.) The ALJ therefore had to determine whether Stanley retained the residual functional capacity ("RFC") to perform the requirements of his past relevant work or other work existing in significant numbers in the national economy. (Tr. 15.) This inquiry is important because if Stanley does have the RFC to perform his past work, he would not be entitled to DIB. In making this determination, the ALJ rejected the

opinion of Stanley's treating physician, Dr. Snyder, because he felt that Dr. Snyder's report of extreme limitations submitted in the RFC questionnaire was inconsistent with the doctor's own records as well as all other medical reports and opinions. (Tr. 17.) Relying on the state agency physician, the ALJ concluded that Stanley retained the RFC to lift no more than ten pounds frequently or twenty pounds occasionally, and could sit for up to eight (8) hours and stand for up to six (6) hours in an eight (8) hour workday (Tr. 15, 17.) He made no findings concerning how stress, or Stanley's emotional state would affect his ability to perform as a school teacher. Therefore, since Stanley's past relevant work experience was as a school teacher, and because the VE testified that with Stanley's RFC he could return to that work, the ALJ concluded that Stanley was not entitled to DIB under the Act. (Tr. 17, 19.)

III. STANDARD OF REVIEW

Section 405(g) of the Act grants this Court "the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the [Commissioner], with or without remanding the case for a rehearing." 42 U.S.C. § 405(g).

The Court's task is limited to determining whether the ALJ's factual findings are supported by substantial evidence, which means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Young v. Barnhart*, 362 F.3d 995, 1001 (7th Cir. 2004). The decision will be reversed only if it is not supported by substantial evidence or if the ALJ applied an erroneous legal standard. *Clifford v. Apfel*, 227 F.3d 863, 869 (7th Cir. 2000).

To determine if substantial evidence exists, the Court reviews the entire administrative record, but does not reweigh the evidence, resolve conflicts, decide questions of credibility, or substitute its judgment for the Commissioner's. *Id.* Rather, if the findings of the Commissioner

are supported by substantial evidence, they are conclusive. *Jens v. Barnhart*, 347 F.3d 209, 212 (7th Cir. 2003). Nonetheless, “substantial evidence” review should not be a simple rubber-stamp of the Commissioner’s decision. *Clifford*, 227 F.3d at 869.

IV. DISCUSSION

Under the Act, a plaintiff is entitled to DIB if he establishes an “inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to . . . last for a continuous period of not less than 12 months” 42 U.S.C. § 416(i)(1); 42 U.S.C. § 423(d)(1)(A). A physical or mental impairment is “an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.” 42 U.S.C. § 423(d)(3).

In determining whether Stanley is disabled as defined by the Act, the ALJ conducted the familiar five-step analytical process, which required him to consider the following issues in sequence: (1) whether the claimant is currently unemployed; (2) whether the claimant has a severe impairment; (3) whether the claimant’s impairment meets or equals one of the impairments listed by the Commissioner, *see* 20 C.F.R. § 404, Subpt. P, App. 1; (4) whether the claimant is unable to perform his past work; and (5) whether the claimant is incapable of performing work in the national economy. *See* 20 C.F.R. § 404.1520; *Dixon v. Massanari*, 270 F.3d 1171, 1176 (7th Cir. 2001). An affirmative answer leads either to the next step or, on steps three and five, to a finding that the claimant is disabled. *Zurawski v. Halter*, 245 F.3d 881, 886 (7th Cir. 2001). A negative answer at any point other than step three stops the inquiry and leads to a finding that the claimant is not disabled. *Id.* The burden of proof lies with the claimant at

every step except the fifth, where it shifts to the Commissioner. *Clifford*, 227 F.3d at 868.

In this case, the ALJ essentially found that Stanley could still perform his past relevant work as a school teacher, leading to a determination that Stanley is not disabled. (Tr. 13-19.) Stanley proffers three somewhat related arguments for reversing the ALJ's decision: (1) the ALJ erred by failing to make the required findings on the mental demands, and accompanying stress, of his past relevant work as a schoolteacher; (2) the ALJ improperly rejected the opinion of Stanley's treating physician, Dr. Snyder; and (3) the ALJ improperly rejected Stanley's testimony. Each argument will be considered in turn.

A. Residual Functional Capacity Analysis

Having proceeded through four steps of the five-step analysis, the ALJ ultimately concluded that Stanley could perform his past relevant work (Tr. 17), thereby making any further analysis (step five) unnecessary.

At step four, the ALJ must assess the claimant's RFC to determine what, if any, employment the claimant is capable of. *Young*, 362 F.3d at 1000. The RFC is an assessment of what work-related activities the claimant can perform despite his limitations. *Id.*; 20 C.F.R. § 404.1545(a)(1) (stating that one's residual functional capacity is the most one can still do despite any limitations). In determining a claimant's physical abilities, the ALJ should "first assess the nature and extent of the claimant's physical limitations and then determine the claimant's residual functional capacity for work activity on a regular and continuing basis." 20 C.F.R. § 404.1545(b). The RFC must be based on all relevant evidence in the record. 20 C.F.R. § 404.1545(a)(1); *Young*, 362 F.3d at 1001.

The step four analysis is comprised of three phases. In the first phase, the ALJ must

evaluate Stanley's physical and mental RFC. S.S.R. 82-62; S.S.R. 86-8; *Prince v. Sullivan*, 933 F.2d 598, 603 (7th Cir. 1991). In the second phase, the ALJ must determine the physical and mental demands of Stanley's past occupation. In the third phase, the ALJ is to determine whether Stanley's RFC would permit him to return to being a teacher. *Prince*, 933 F.2d at 603. At each of the three phases, the ALJ must make specific findings of fact. *Id.* at 602.

Here, the ALJ concluded that Stanley was capable of standing up to six hours and sitting up to eight hours in an eight-hour workday, was capable of lifting no more than ten pounds frequently or twenty pounds occasionally, and must avoid exposure to concentrated temperature extremes. (Tr. 15, 17.)

According to the ALJ, the impartial consultative physician concluded that Stanley was capable of lifting up to forty pounds and could walk a couple of miles without discomfort. (Tr. 16.) The state agency physician concluded that Stanley was capable of sitting and standing for six hours in an eight hour work day, and could sustain work at the medium exertional level, but must avoid concentrated temperature extremes. (Tr. 16, 242.) In the RFC questionnaire, Dr. Snyder indicated that Stanley could occasionally lift ten pounds or more but never lift twenty pounds or more. (Tr. 542.) In an eight hour workday, Dr. Snyder also felt that Stanley could sit about four hours and stand/walk less than two hours. (Tr. 542.) In the RFC questionnaire Dr. Rich⁵ completed, he indicated that Stanley could occasionally lift ten to twenty pounds but never lift more than fifty pounds. (Tr. 552.) In an eight hour workday, Dr. Rich felt that Stanley could sit and stand/walk for less than two hours. (Tr. 552.) Stanley testified that he could be on his

⁵Because Dr. Rich now believes he completed this questionnaire for the wrong patient, it is of dubious value.

feet for an hour at most and could sit for an hour and a half without too much difficulty. (Tr. 26.) Stanley felt he could lift ten, fifteen, or twenty pounds occasionally but not for an extended period of time. (Tr. 26.)

Based on the above, the ALJ's conclusion that Stanley could lift ten pounds frequently, twenty pounds occasionally, and should not be exposed to temperature extremes is supported by substantial evidence. The opinions of Dr. Snyder, Dr. Rich, the impartial consultative examiner, and the state agency physician all support this conclusion, as does Stanley's testimony.

However, the ALJ's conclusion that Stanley could stand for six hours and sit for eight hours in an eight-hour workday is not supported by substantial evidence. Although the state agency physician opined that Stanley could sit and stand for six hours (not the eight hours found by the ALJ), Dr. Snyder and Dr. Rich both indicated a substantially more restricted ability to stand and sit. Moreover, because the ALJ rejected the opinion of Dr. Snyder, which he felt was unsupported, he was left with the opinion of the state agency physician, the ostensibly retracted opinion of Dr. Rich and the testimony of Stanley. Thus clarified, the record indicates that Stanley can sit and stand for six hours (state agency physician's opinion), either sit and stand for less than two hours (Dr. Rich's opinion), or can stand for an hour and sit for an hour and a half (Stanley's opinion). For some unexplained reason, the ALJ apparently rejected Stanley's testimony on this point, or at least failed to consider it. *See Clifford*, 227 F.3d at 870 (stating that an ALJ must minimally articulate his reasons for crediting or rejecting evidence of disability). Critically, the ALJ made no findings about the nature and extent of Stanley's claimed stress, or how it affects him either mentally or physically.

Turning to the second phase of the step four analysis, which requires the ALJ to make

findings regarding the physical and mental demands of the claimant's past relevant work, 20 C.F.R. § 404.1520(e), the ALJ found that "the claimant's past relevant work as a school teacher did not require the performance of work-related activities precluded by his residual functional capacity." (Tr. 18.) Specifically, Stanley contends that the ALJ erred by failing to make the required findings on the stressful mental demands of his past relevant work as a school teacher. To support this proposition, Stanley relies on *Winfrey v. Chater*, 92 F.3d 1017 (10th Cir. 1996).⁶ In *Winfrey*, the Tenth Circuit held that the ALJ's analysis at step four was flawed in several respects; specifically, the ALJ failed by 1) not including all of plaintiff's exertional limitations in his RFC finding; 2) not developing the record on, nor making the required findings about, the mental demands of plaintiff's past relevant work; and 3) abdicating his fact- finding and evaluating responsibilities to the VE. *Id.* at 1026.

The Commissioner counters by pointing to another Tenth Circuit case, *Doyal v. Barnhart*, 331 F.3d 758 (10th Cir. 2003), distinguishing *Winfrey*. In *Doyal*, the plaintiff also contended that the ALJ improperly analyzed her RFC at step four of the five-step analysis. *Id.* at 760. Doyal conceded that the ALJ made the RFC findings required by phase one of the analysis, but then simply relied on the opinion of the VE as to the demands of her past relevant work without making the proper findings required by the remaining phases of the analysis. *Id.* at 761. In reaching the conclusion that Doyal could return to her past relevant work, the ALJ stated the following:

The impartial vocational expert offered testimony indicating that given her particular residual functional capacity, the claimant can perform past relevant work. The vocational expert added that there is no variance between the

⁶No precisely comparable Seventh Circuit authorities could be found by the Court, and apparently the parties could not find any either, hence their reliance on Tenth Circuit opinions.

description of these jobs found in the *Dictionary of Occupational Titles* and the claimant's residual functional capacity. (S.S.R. 00-4p). Because Ms. Doyal's past relevant work did not require the performance of work activities precluded by her medically determinable impairments, I conclude that she is able to perform her past relevant work as a housecleaner and sewing machine operator.

Id.

Ultimately, the court held that the ALJ did not delegate the analysis to the VE; instead, the ALJ quoted the VE's testimony approvingly, in support of his findings at phases two and three of the analysis. *Id.* The court reasoned that although the ALJ did not use the phrase "I find" in connection with the second phase of the analysis, the form of the words should not obscure the substance of what the ALJ actually did. *Id.*

Like the ALJ in *Winfrey*, the ALJ here made no inquiry into, or any findings specifying, the physical or stressful mental demands of Stanley's past relevant work, either as he actually performed the work or as it is customarily performed in the national economy. This gap in the record is fatal, particularly given that the VE conceded that the mental demands of teaching included directing, influencing, and dealing with people. (Tr. 37, 38.)

The Commissioner glosses over the absence of the required findings by referring to the VE's testimony where he simply opined Stanley is capable of doing his past employment. However, unlike the ALJ in *Doyal*, the ALJ here neglected to elicit from the VE a description of the demands of Stanley's past work as a school teacher; instead, the ALJ merely allowed the VE to question Stanley about some of the duties Stanley performed in his position as *department head*. (Tr. 35-37.) There is no testimony, either from the VE or Stanley himself, concerning the physical demands of Stanley's teaching position or his specific duties. For example, although Stanley testified that the class periods at North Adams are currently ninety minutes, (Tr. 26),

there is no indication how his time is divided within those periods, nor do we know how many classes a day he teaches. In short, despite making some specific findings about Stanley's purported RFC (omitting, however, the important element of stress), the ALJ neglected to make similar findings about the mental and physical demands of a school teacher. As this is contrary to the Commissioner's own rules, the ALJ erred. *See* S.S.R. 82-62, Soc. Sec. Rep. Serv., Rulings 1975-1982, at 813.

In sum, the ALJ's analysis at step four was flawed in several respects. First, the RFC finding the ALJ made at the first phase of the step four analysis does not, because it makes no accounting for how stress may affect him, accurately reflect Stanley's exertional limitations. Next, at the second phase of the step four analysis, the ALJ failed to develop the record on, and to make the required findings about, the physical and mental demands of Stanley's teaching job. This in turn was compounded by the ALJ's failure to elicit sufficient information from the VE to support his ultimate conclusion that Stanley could return to his past relevant work. Due to these errors, the ALJ's conclusion that Stanley could return to his past relevant work is not supported by substantial evidence.

B. Rejection of Treating Physician's Opinion and Stanley's Testimony

Stanley also contends that the ALJ improperly rejected the opinion of Dr. Snyder, Stanley's treating physician, in favor of the opinions of the state agency physician and the consultative examiner. Dr. Snyder opined that Stanley could walk and stand up to two hours and sit for four hours in an eight hour workday. (Tr. 542.) Dr. Snyder further indicated that the stress of directing, influencing, and dealing with people, as well as making judgments and decisions, might exacerbate Stanley's heart condition. (Tr. 540.) The ALJ concluded that Dr. Snyder's reports of

“extreme limitations” are inconsistent with the doctor’s own records, as well as all other medical reports and opinions. (Tr. 17.) Because Stanley’s medical records are silent concerning the exacerbation of physical symptoms due to stress, the ALJ concluded that the opinion of the state agency physician was better supported by the medical record than Dr. Snyder’s. (Tr. 17.)

Before reaching this determination, the ALJ properly noted that more weight is generally given to the opinion of the treating physician because of his greater familiarity with the claimant’s conditions and circumstances. (Tr. 16.) *See Clifford*, 227 F.3d at 870. A treating physician’s opinion regarding the nature and severity of a medical condition is entitled to controlling weight if it is well-supported by the medical findings and not inconsistent with other substantial evidence in the record. 20 C.F.R. 404.1527(d)(2). As the Seventh Circuit has stated, “a claimant, however, is not entitled to disability benefits simply because a physician finds that the claimant is ‘disabled’ or ‘unable to work.’” *Clifford*, 227 F.3d at 870.

Even though Dr. Snyder’s records may be silent about the effect of stress on Stanley’s symptoms, it does not necessarily follow that Stanley’s medical records are “inconsistent” with the conclusions Dr. Snyder reached concerning the effect of stress on Stanley’s physical symptoms. Stanley stopped working in October of 1997 but did not begin treatment with Dr. Snyder until early 1998. Because Stanley had stopped working when he began regular treatment with Dr. Snyder, it is not surprising, nor is it inconsistent, that Dr. Snyder’s medical records do not mention the effect of work-related stress on Stanley’s condition. Besides, the state agency physician’s opinion was also silent about the effect of work-related stress on Stanley’s physical symptoms.

Moreover, the ALJ’s opinion is silent as to why he ignored Stanley’s testimony concerning the effects of stress on his physical symptoms. The ALJ neither credited this testimony nor

rejected it. He simply seemed to ignore it. Although the ALJ need not address every single piece of evidence in his decision, his analysis must build an accurate and logical bridge between the evidence and his findings. *McKinnie v. Barnhart*, 368 F.3d 907, 910 (7th Cir. 2004). In this case, the ALJ did not adequately explain why the objective medical evidence does not support Stanley's complaints about the effect of stress on his physical symptoms. Rather, the ALJ lists Stanley's asymptomatic daily activities (i.e. exercise, working around the house/yard) as evidence that he retains the physical capacity to return to his work as a school teacher. (Tr. 17.) This evidence, however, is insufficient to support such a finding because minimal daily activity does not establish that a person is capable of engaging in substantial physical activity. *Clifford*, 227 F.3d at 872; *see also Knight v. Chater*, 55 F.3d 309, 314 (7th Cir. 1995) (stating that an ALJ may discount subjective complaints of pain that are inconsistent with the evidence as a whole; however, the ALJ may not disregard subjective complaints simply because they are not fully supported by the objective medical evidence).

Furthermore, it is well-settled that the combination of a weakened heart and high susceptibility to work-related stress *may* support a finding of disability. *See Schmidt v. Sullivan*, 914 F.2d 117, 118-19 (7th Cir. 1990) (stating that attacks of angina pectoris—the chest pains that are symptoms of coronary artery disease—can be brought on by psychological stress and may affect various people differently; as a result, ALJs must not succumb to the temptation to play doctor); *Mulvenna v. Sullivan*, 796 F.Supp. 325, 334 (N.D. Ill. 1992) (noting that the combination of a weakened heart and high susceptibility to work-related stress may support a finding of disability).

Although internal inconsistencies may provide good cause to deny controlling weight to a treating physician's opinion, the ALJ here did not adequately articulate his reasoning for

discounting Dr. Snyder's opinion. In particular, the ALJ did not explain why Dr. Snyder's statements regarding the effects of work-related stress on Stanley's physical symptoms were necessarily inconsistent with Stanley's medical records. Moreover, the ALJ did not, but should have considered all relevant evidence, including Stanley's testimony regarding the effects of stress on his physical symptoms, in weighing whether Stanley is under a disability.

V. CONCLUSION

In sum, the ALJ's step four analysis was flawed in several respects. In the first phase of the analysis, the ALJ's conclusion that Stanley could stand for six hours and sit for eight hours was not supported by substantial evidence, and of course, he neglected to give any consideration to Stanley's claimed stress, which was supported by Dr. Snyder. This shortcoming apparently arose because the ALJ improperly rejected, or at least appeared to reject, both the opinion of Dr. Snyder as well as Stanley's own testimony with respect to Stanley's physical limitations and the debilitating effect of stress.

In the second phase, the ALJ failed to develop the record on, and to make the required findings about, the mental and physical demands of plaintiff's past relevant work, including the level of stress associated with being a teacher. Thus, the ALJ's ultimate conclusion that Stanley could return to his past relevant work is necessarily grounded on an incomplete record and insubstantial evidence.

For these reasons, the decision is hereby REVERSED and REMANDED to the Commissioner for further findings consistent with this opinion. SO ORDERED.

Enter for this 11th day of August, 2004.

s/Roger B. Cosbey
Roger B. Cosbey,
United States Magistrate Judge